

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARY YOUNG,)	
)	
Petitioner,)	
)	
v.)	CASE NO. 2:17-CV-749-WKW
)	[WO]
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On November 9, 2017, the Magistrate Judge filed a Recommendation (Doc. # 2) that Petitioner's *pro se* motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Doc. # 1) "be dismissed as a successive § 2255 motion filed without the required appellate court authorization" (Doc. # 2, at 1). In response to the Recommendation, Petitioner filed a motion to withdraw her § 2255 motion (Doc. # 3) and represented that she "will obtain the required authorization from the Eleventh Circuit Court of Appeals to file a successive motion" (Doc. # 3, at 1). The Government has yet to file anything in this action.

Rather than rule on the Recommendation, the court will construe Defendant's motion to withdraw (Doc. # 3) as a notice of voluntary dismissal pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, which the court finds to be

applicable to this § 2255 proceeding under Rule 12 of the Rules Governing Section 2255 Proceedings for the United States District Courts and Rule 81(a)(4) of the Federal Rules of Civil Procedure. *Cf. Williams v. Clarke*, 82 F.3d 270, 272–73 (8th Cir. 1996) (“We conclude that in this particular context, a Rule 41(a)(1) voluntary dismissal is both appropriate and consistent with the rules governing habeas corpus cases.” *Id.* at 273).

Accordingly, this action has been dismissed without prejudice by operation of Rule 41.

The Clerk of the Court is DIRECTED to close this case.

DONE this 14th day of December, 2017.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE